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In re Application of	:	
MULLIGAN	:	
Application No.: 10/528,459	:	NOTIFICATION
PCT No.: PCT/IB202/003890	:	
Int. Filing Date: 20 September 2002	:	
Priority Date: None	:	
Attorney Docket No.: 915-006.072	:	
For: METHOD, DEVICE AND SYSTEM FOR	:	
PROVIDING ADDITIONAL . . . TERMINAL DEVICES	:	

This notification is in response to applicant's submission filed 21 August 2008.

BACKGROUND

On 20 September 2002, applicant filed international application PCT/IB2002/003890 which designated the U.S. and did not claim a priority date. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 29 April 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 21 March 2005 (20 March 2005 being a Sunday).

On 18 March 2005, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, the Basic National Fee, a declaration of inventors, and preliminary amendment.

On 18 October 2005, the United States Designated/Elected Office (DO/EO/US) mailed a NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 (Form PCT/DO/EO/903) according the application a 35 U.S.C. 371 (c)(1), (c)(2), and (c)(4) date of 18 March 2005. The NOTICE also indicated that a copy of the IPE Report was filed on 18 March 2005.

On 21 August 2008, applicant filed the instant submission requesting that the Office of PCT Legal Administration make a determination as to which set of claims are to be examined: claims 1-25 in the published international application or claims 1-23 included as an Annex to the

NOTIFICATION OF TRANSMITTAL OF INTERNATIONAL PRELIMINARY REPORT ON
PATENTABILITY (Chapter II of the Patent Cooperation Treaty) (Form PCT/IPEA/416).

DISCUSSION

MPEP § 1893.01(a)(3) states in part:

Amendments to the international application that were properly made under PCT Article 34 during the international preliminary examination phase (i.e., Chapter II) will be annexed by the International Preliminary Examining Authority to the international preliminary examination report (IPER) and communicated to the elected Offices. See PCT Article 36, PCT Rule 70.16, and MPEP § 1893.03(e). If these annexes are in English, they will normally be entered into the U.S. national stage application by the Office absent a clear instruction by the applicant that the annexes are not to be entered. (emphasis added)

Here, there is no clear instruction by the applicant that the annexes not be entered. Accordingly, the annexes should be entered. Thus, it is claims 1-23 included as an Annex to the NOTIFICATION OF TRANSMITTAL OF INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY (Chapter II of the Patent Cooperation Treaty) rather than claims 1-25 as published in the international application which are to be examined.

CONCLUSION

Any inquiries concerning this decision may be directed to Daniel Stemmer at 571-272-3301. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to the examiner of Technology Center Art Unit 2451 for appropriate action consistent with this notification.

/Daniel Stemmer/

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